

**In the Supreme Court of Iowa**

**FILED**

AUG 04 2015

**In the Matter of Adoption of the )  
Uniform Bar Examination and )  
Request for Public Comment on ) Order  
Proposed Rules Governing )  
the Bar Admissions Process )**

CLERK SUPREME COURT

Upon recommendation of the Iowa Board of Law Examiners (Board), and after the court's full consideration, the Iowa Supreme Court adopts the Uniform Bar Examination (UBE) as the examination for admission to the Iowa bar. The UBE will be the Iowa bar admissions examination beginning in February 2016. The court requests public comment on proposed amendments to Chapter 31 of the Iowa Court Rules incorporating the UBE into Iowa's bar admissions process.

**The Uniform Bar Examination (UBE)**

On September 5, 2014, the Iowa Supreme Court requested that the Board submit a report and recommendations on matters including whether the UBE should be adopted in Iowa, and if so, the process that should be followed. The Board thoroughly assessed the UBE, met with representatives from the National Conference of Bar Examiners (NCBE), and considered approximately 115 comments from attorneys, law school deans and professors, students, and The Iowa State Bar Association. On March 27, 2015, the Board provided the court a detailed report stating, "The vast majority of those who responded and discussed the issue favored adopting the UBE." The Board recommends that the court adopt the UBE for Iowa's bar admissions examination. The Board's "Report to the Supreme Court of Iowa on the Process for Admission of Lawyers by Examination" (report) is provided with this order in full.

The court notes, as detailed in the Board's report, a number of favorable aspects of the UBE. One advantage is that the Iowa bar examination already includes the major components of the UBE: The Multistate Bar Examination (MBE), the Multistate Performance Test (MPT), and the Multistate Essay Examination (MEE). UBE jurisdictions agree to honor the scores of applicants from other member jurisdictions. Several states contiguous to Iowa offer the UBE. Iowa bar examination graders already follow the UBE uniform grading guidelines. Also, the portability of UBE scores will provide better employment prospects for law students in Iowa. And, rural practitioners, particularly in or near border counties, would have an easier ability to practice in multiple states. Finally, as the Board notes, The Iowa State Bar Association's Blue Ribbon Committee on Legal Education and Licensure also favorably viewed the UBE.

The court seeks public comment on proposed new and amended rules governing the bar admissions process contained in Chapter 31 of the Iowa Court Rules. To accommodate UBE requirements, the proposed new and amended rules include the following:

1. Eliminating transfer and banking of MBE scores. The rules simplify the admission by examination process by having all applicants take the UBE.
2. Requiring that applicants take the MBE, MPT, and the MEE in one exam administration to earn a UBE score that is transferable to another UBE jurisdiction.
3. Setting the fee for applying for admission by transferred UBE score at \$525 (same as the admission motion fee).
4. Requiring that a transfer applicant must have an LL.B. or a J.D. degree from an ABA-approved law school.
5. Providing that a transfer applicant must have a Multistate Professional Responsibility (MPRE) score of at least 80.

6. Allowing applicants to transfer a certified UBE score of at least 266 from one of the last four UBE administrations prior to the application date without a showing of legal practice.
7. Permitting attorney applicants to transfer a UBE score of at least 266 up to five years after the examination was taken if the attorney can prove a regular engagement in the practice of law for at least two of the three years immediately preceding the application.
8. Requiring a complete character and fitness investigation for each transfer applicant and can require the applicant to obtain an NCBE investigative report.
9. Providing automatic reviews for examinations in a score range of 260 to 265, but the Board will not conduct reviews after bar results are released.

The Board's report also addresses the concern that there is no specific Iowa law component to the Iowa bar examination, which will remain true with adoption of the UBE. The report states as follows:

The UBE, and the current Iowa Bar Examination, test on general jurisdictional principles the students are taught in law schools. Applicants demonstrate their ability through multiple choice, essays, and performance testing. The three formats test different skills. Combined, they not only test on substantive, black-letter law, but also require the applicants to apply fundamental legal principles to fact patterns, communicate effectively in writing, reason to a logical conclusion, and perform lawyer-like tasks using a closed-universe library and client file in a realistic setting. The board believes the bar examination currently given does what it is supposed to do—it tests whether the applicant possesses the minimum competence to practice law.

It is not necessary that the peculiarities of Iowa law be presented to the students on a bar examination. Our applicants have graduated from ABA-accredited law schools. These schools, especially those in and around Iowa, are free to teach as much or as little Iowa law as they desire. They are not required to "teach to the test." Often, because they have a national student base and because Iowa has adopted a number of Uniform Acts, they do not choose to teach a lot of substantive Iowa law.

The board would encourage the law schools "to adopt an Iowa practice and procedure course to benefit those students who intend to practice primarily in Iowa."

Copies of the proposed rule amendments adopting the UBE are available at [www.iowacourts.gov/Supreme\\_Court/Orders/](http://www.iowacourts.gov/Supreme_Court/Orders/) and are provided with this order. In addition, copies are available at the office of the Clerk of the Supreme Court, Judicial Branch Building, 1111 East Court Avenue, Des Moines, Iowa, 50319.

Any interested organization, agency, or person may submit written comments. Comments about a proposed rule must refer to the specific rule number (for example, Rule 31.3(1)) and the specific numbered line or lines to which the comments are directed. Comments sent by email must be emailed to **rules.comments@iowacourts.gov**, must state **“Uniform Bar Examination”** or **“UBE”** in the subject line of the email, and must be sent **as an attachment to the email in Microsoft Word format**. Instead of submission by email, comments may be delivered in person or mailed to the Clerk of the Supreme Court, Judicial Branch Building, 1111 East Court Avenue, Des Moines, Iowa, 50319.

Any comments received may be posted on the Iowa Judicial Branch website.

**The deadline for submitting comments is 4:30 p.m. on September 4, 2015.**

### **Third-Year Law Student Bar Examination (3L testing)**

In addition to examining the UBE, the court also asked the Board to consider whether third-year law students should be permitted to sit for the bar examination during their third year of law school—a process known as “3L testing.” The Board’s report provides a thorough and detailed analysis of 3L testing. Members of the board visited personally with faculty and administrators from the University of Arizona and Arizona State University law schools, which have been piloting 3L testing

programs, and considered Georgia's previous experience with 3L testing as well. The Board carefully reviewed the many public comments received on 3L testing and responses from Drake University Law School, the University of Iowa College of Law, and Creighton University Law School, as well as comments from The Iowa State Bar Association.

As with the comments received on 3L testing, which slightly disfavored the concept, the Board is also divided on the 3L testing concept. The Board's report concludes: "Until the law schools support the concept of 3L testing, the board cannot recommend allowing law students to take the examination during the third-year of law school."

The Board's report notes that Drake University Law School and The Iowa State Bar Association oppose 3L testing. Creighton University Law School is reviewing the concept. The University of Iowa College of Law has not reported a formal stand on the issue. Georgia, according to the report, "appears to be reconsidering the issue." As several commentators observed, the pilot project in Arizona, which "appears to have gone well" according to the Board, is ongoing, and Arizona has not completed a final assessment.

The court agrees with the Board that until law schools support the 3L testing concept, it would be improvident to adopt a 3L testing scheme for bar applicants. The court finds, however, sufficient promise in the ongoing Arizona pilot program for 3L testing, to warrant further consideration of the concept. Accordingly, the court requests that the Iowa Board of Law Examiners explore the potential for Creighton University, Drake University, and University of Iowa law schools to establish a 3L testing pilot program at each institution.

Dated this 4th day of August, 2015.

The Supreme Court of Iowa

By Mark S. Cady  
Mark S. Cady, Chief Justice